



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9974-48-OAR]

Allocations of Cross-State Air Pollution Rule Allowances from New Unit Set-Asides for 2017 Control Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) is providing notice of the availability of data on emission allowance allocations to certain units under the Cross-State Air Pollution Rule (CSAPR) trading programs. EPA has completed calculations for the second round of allocations of allowances from the CSAPR new unit set-asides (NUSAs) for the 2017 control periods to new units and has posted spreadsheets containing the calculations on EPA's website. In addition to the eligible units identified in the previous notice regarding this round of 2017 NUSA allocations, EPA is allocating allowances to two newly affected units in Wisconsin that were not previously identified as eligible to receive such allocations. EPA has also completed calculations for allocations of the remaining 2017 NUSA allowances to existing units and has posted spreadsheets containing those calculations on EPA's website as well.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Robert Miller at (202) 343-9077 or miller.robert1@epa.gov or Kenon Smith at (202) 343-9164 or smith.kenon@epa.gov.

SUPPLEMENTARY INFORMATION: Under each CSAPR trading program where EPA is responsible for determining emission allowance allocations, a portion of each state's emissions budget for the program for each control period is reserved in a NUSA (and in an additional

Indian country NUSA in the case of states with Indian country within their borders) for allocation to certain units that would not otherwise receive allowance allocations. The procedures for identifying the eligible units for each control period and for allocating allowances from the NUSAs and Indian country NUSAs to these units are set forth in the CSAPR trading program regulations at 40 CFR 97.411(b) and 97.412 (NO_x Annual), 97.511(b) and 97.512 (NO_x Ozone Season Group 1), 97.611(b) and 97.612 (SO₂ Group 1), 97.711(b) and 97.712 (SO₂ Group 2), and 97.811(b) and 97.812 (NO_x Ozone Season Group 2). Each NUSA allocation process involves up to two rounds of allocations to eligible units, termed “new” units, followed by the allocation to “existing” units of any allowances not allocated to new units.

In a notice of data availability (NODA) published in the *Federal Register* on December 15, 2017 (82 FR 59603), EPA provided notice of our preliminary identification of units eligible to receive second-round NUSA allocations for the 2017 control periods and described the procedure for submitting any objections. In this NODA, we are responding to objections and providing notice of our calculations of the amounts of the second-round 2017 NUSA allocations.

EPA received one objection in response to the December 15, 2017 NODA. Madison Gas and Electric Company (MG&E) submitted an objection claiming that units U1 and U2 at the West Campus Cogeneration Facility (WCCF) in Madison, Wisconsin are eligible to receive second-round 2017 NUSA allocations because the units became newly affected units under the CSAPR trading programs as of January 1, 2017. As discussed below, based on the information provided by MG&E we agree that these units are eligible to receive second-round 2017 NUSA allocations and we have therefore included the units when calculating the allocations.

WCCF units U1 and U2 are fossil fuel-fired combustion turbines that began operating in 2005. According to MG&E, through 2015 the units qualified for an exemption from CSAPR

applicability that is available to certain cogeneration units, but during 2016 the units no longer met the full set of qualifying conditions for the exemption. Applying the CSAPR definitions and applicability criteria, MG&E concluded that the units would become CSAPR-affected units as of January 1, 2017 and would be deemed to “commence commercial operation” for CSAPR purposes as of that same date.¹ These conclusions in turn indicated a deadline of June 30, 2017 (i.e., 180 calendar days after the units’ deemed date of commencement of commercial operation) for MG&E to certify monitoring systems and to begin monitoring the units’ emissions.² MG&E is required to hold allowances sufficient to cover the units’ reported emissions occurring on and after the units’ monitor certification deadline.³

Under the CSAPR regulations, a newly affected unit is treated as a “new” unit potentially eligible to receive first-round and/or second-round NUSA allocations. As relevant here, a newly affected unit is generally eligible to receive second-round NUSA allocations with respect to its reported emissions occurring on and after its monitor certification deadline in the calendar year in which the unit is deemed to have commenced commercial operation for CSAPR purposes and in the following calendar year.⁴ EPA did not initially identify WCCF units U1 and U2 as eligible for second-round 2017 NUSA allocations because the monitoring plan MG&E submitted to us for the units included an April 26, 2005 date of commencement of commercial operation, reflecting the units’ actual operating history, rather than the January 1, 2017 deemed date of commencement of commercial operation for CSAPR purposes. Based on the additional

¹ See, e.g., 40 CFR 97.404(b)(1)(ii) and 97.402 (definition of “commence commercial operation”).

² See, e.g., 40 CFR 97.430(b).

³ See, e.g., 40 CFR 97.406(c)(3)(i).

⁴ See, e.g., 40 CFR 97.412(a)(9).

information provided by MG&E described above, we are now using the January 1, 2017 deemed date of commencement of commercial operation to evaluate the units' eligibility, and we consequently have included the units when calculating the second-round 2017 NUSA allocations.

The final unit-by-unit data and allowance allocation calculations are set forth in Excel spreadsheets titled "CSAPR_NUSA_2017_NOx_Annual_2nd_Round_Final_Data_New_Units", "CSAPR_NUSA_2017_NOx_Ozone_Season_2nd_Round_Final_Data_New_Units", "CSAPR_NUSA_2017_SO2_2nd_Round_Final_Data_New_Units", "CSAPR_NUSA_2017_NOx_Annual_2nd_Round_Final_Data_Existing_Units", "CSAPR_NUSA_2017_NOx_Ozone_Season_2nd_Round_Final_Data_Existing_Units", and "CSAPR_NUSA_2017_SO2_2nd_Round_Final_Data_Existing_Units", available on EPA's website at <https://www.epa.gov/csapr/csapr-compliance-year-2017-nusa-nodas>.

EPA notes that an allocation or lack of allocation of allowances to a given unit does not constitute a determination that CSAPR does or does not apply to the unit. We also note that under 40 CFR 97.411(c), 97.511(c), 97.611(c), 97.711(c), and 97.811(c), allocations are subject to potential correction if a unit to which allowances have been allocated for a given control period is not actually an affected unit as of the start of that control period.

(Authority: 40 CFR 97.411(b), 97.511(b), 97.611(b), 97.711(b), and 97.811(b).)

Dated: January 25, 2018. Reid P. Harvey,
Director, Clean Air Markets Division,
Office of Atmospheric Programs,
Office of Air and Radiation.
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